

## I. INTRODUCTION

Municipal code enforcement in Maine dates back to 1895 when a requirement for an “inspector of buildings” was first passed by the legislature. Since 1973, the State’s Shoreland Zoning Act has assigned primary responsibility for enforcement to local code enforcement officers. Local permitting and inspection under Maine's plumbing rules have been a requirement for a much longer time. Maine's Community Investment and Planning Program with the guidance of the Land Use Regulation Act is encouraging municipalities to evaluate existing mechanisms that regulate development and protect natural resources. Requirements for the training and certification of municipal code enforcement officers are a part of this Act.

The purpose of the training and certification is to build and strengthen local capacity to administer and enforce new and existing ordinances. As a result of this emphasis code enforcement has become more uniform across the State, to the benefit of municipalities and their residents. Coordinated management and administration of local ordinances and State statutes helps reduce municipal liability associated with enforcement. Insurance companies and mortgage lenders are more willing to approve applications when regulations are enforced uniformly. Correct administration of floodplain management ordinances assures continued participation in the Federal Flood Insurance Program. Effective administration and enforcement of building codes and standards may yield municipalities a higher rating by the Insurance Services Organization. Efficient and predictable review, permitting, and inspection procedures accommodate local economic development programs.

**Specifically, Title 30-A MRSA § 4451 prohibits any municipality from employing an individual as a code enforcement officer (CEO) who is not certified by the Maine State Planning Office** (hereafter referred to as the Office). A copy of the law may be found in section XIV of this booklet. The Office is required by law to establish educational programs that provide training for individuals engaged in specified areas of code enforcement. The Office is also required to establish through administrative rule-making certain qualifications, standards, conditions, and procedures for examination of knowledge of code enforcement officers and the issuance and renewal of certificates. A copy of the Municipal Code Enforcement Officer Qualifications and Certification Standards Rule (hereafter referred to as the Rule) may be found in section XV of this booklet.

The purpose of this booklet is to explain the training and certification process, and to provide the reader with a quick reference guide to the certification requirements and procedures, based upon the Statute and Rule. **Inquiries concerning the training and certification of code enforcement officers should be directed to program staff at:**

**CEO Training & Certification Program  
Maine State Planning Office  
38 State House Station  
Augusta, ME 04333-0038  
(1-800-662-4545)**

## II. MUNICIPAL RESPONSIBILITY

**Maine law requires that individuals employed by municipalities as code enforcement officers must be certified.** Municipal officers are responsible for ensuring that any individual appointed to enforce shoreland zoning regulations, land use regulations, or building standards must be certified, or become certified within 12 months of appointment. If an uncertified individual fails to earn certification within 12 months of appointment the municipal officers may not reappoint them to the position. Failure to comply with this law may result in formal action against the municipality by the Office of the Attorney General. If a certified code officer is given new or additional responsibilities a grace period of 12 months is permitted. Please note that State law requires that an individual appointed to the position of local plumbing officer must hold certification prior to appointment. **There is no 12-month grace period for LPIs.** (In cases of *extreme hardship* the Division of Health Engineering may grant a temporary waiver to the LPI certification rule.) Where a municipality is seeking to hire an individual as a building inspector, Title 25 § 2351 applies. This law states that any person appointed as a building inspector must be "skilled in the construction of buildings." This law also states that when a municipality reaches a population of 2000, as determined by the most recent U.S. Census data, a building inspector must be appointed to enforce the State's minimum building standards.

**A Code Enforcement Officer is defined as a person certified under Title 30-A § 4451 (2-A) and employed by a municipality to enforce all enabling State laws and local ordinances in the following five areas:**

- **Shoreland zoning** (Title 38, chapter 3, subchapter I, article 2-B)
- **Comprehensive planning & land use** (Title 30-A, Part 2, subpart 6-A, chapter 187)
- **Internal plumbing** (Title 30-A, Part 2, subpart 6, chapter 185, subchapter III)
- **Subsurface wastewater disposal** (Title 30-A, chapter 185, subchapter III)
- **Building standards** (Title 25, Part 6, chapters 313 and 331; Title 30-A, Part 2, subpart 4, chapter 141; and Title 30-A, Part 2, subpart 6, chapter 185, subchapter I)

**TABLE-1**

**To correctly determine the specific areas in which a municipal CEO will need certification, the Rule requires that a municipality both notify the Office of the name(s) of its CEO(s) and clearly describe their job responsibilities. A job description for each CEO shall be submitted to the Office for this purpose.** Job descriptions must be specific and clearly indicate the CEO's authority, as well as reference all adopted ordinances that the CEO is appointed to enforce. It is essential that the job description clearly indicate if the CEO issues permits and for what types of regulations the permits are issued (e.g., land use, building standards, etc.). It must be clear as to whether the permits are issued pursuant to land use

standards, building construction standards, or both. Contact the Maine Municipal Association for information about drafting job descriptions.

**Provided that the Office has on file an up-to-date job description for the CEO, the only other document required for the annual filing is the *certificate of appointment* (or an acceptable equivalent). This document is required for all new appointments and any subsequent reappointments.** The *certificate of appointment* must specify the following information: date of appointment and whether the appointment is a first time appointment, reappointment, or continuation of an indefinite term of appointment. Where the CEO is appointed for an indefinite period, this form serves to simply notify the Office of the individual's continuing employment. In January of each year the Office distributes a standard reporting form to all municipalities that may be used for the purposes of meeting the above requirement.

**In the event that municipal officers must remove a code enforcement officer from public office it may only be *for cause, after notice and hearing*.** (Title 30-A § 2601-A) **The decision to remove the CEO must be made in accordance with the relevant provisions of Maine's Freedom of Access Law** commonly referred to as the "right-to-know law." (Title 1 § 401 et seq.) Municipal officials should act carefully to ensure that any rights that the employee has under law are protected. The individual may be entitled to written notice of the possibility that he or she will be removed from office, or not be reappointed to an office held. The individual has the right to be present at all proceedings related to their removal. The individual has a right to decide whether the hearing and deliberations will be conducted in a public session or in an "executive session." To sustain a finding of *just cause* for dismissal of an employee, the employer's proof must meet certain burdens and not simply be based upon philosophical differences or personality conflicts.

In order to ensure uninterrupted service, it is highly advisable that an alternate CEO be appointed to fill in for the regular code officer during any period of absence. Appointed alternates must meet the same qualifications and certification requirements as the regular CEO. The position of alternate must be legally created and the individual appointed and sworn into office prior to performing any official duties. Many towns share CEOs for this purpose.

### III. CODE ENFORCEMENT OFFICER DEFINED

**Title 30-A MRSA § 4451 (2-A) defines a *code enforcement officer* as an individual who is employed by a municipality and is certified to enforce all applicable laws and ordinances in the following areas: shoreland zoning, land use, internal plumbing, external plumbing, and building standards.** (refer to Table 1 for specific statutory information)

Typically, someone serving in the capacity of a *municipal code enforcement officer* will have some degree of responsibility for: review of permit applications, approval of permits, inspections, and related enforcement duties. These responsibilities are required by particular State statutes, local ordinances, or adopted codes. The regulations might cover any of the following concerns: building construction, life safety, fire safety, electrical, plumbing, accessibility, zoning, land use, signs, environmental protection, and even junk automobiles. The regulating standard might reference the enforcement official as: code enforcement officer, code officer, CEO, building official, building inspector, code official, etc. For the sake of uniformity Maine has adopted the general term *code enforcement officer*. For the purposes of the certification rules, the State includes local plumbing inspectors within the definition of *code enforcement officer*.

Given the relative small size of most Maine communities, all code enforcement responsibility is generally given to one individual. In the larger communities where more activity is present, more than one code officer may be employed. In these situations a particular code officer may specialize in one single area such as electrical inspections. While the range of potential responsibilities code officers might assume is wide, the State law requiring certification narrowly defines which code enforcement duties it specifically governs. Agency Rules regulating the specific procedures for certification were established by the State Planning Office and adopted pursuant to the governing State certification law. These Agency Rules (hereafter referred to as the Rule) are adopted according to procedures specified in the Administrative Procedures Act. The State Planning Office cannot change the Rules without following procedures that include public hearings. The Rules prohibit the State Planning Office from waiving the requirements for certification.

#### **A. CEO/Shoreland Zoning Officers:**

Municipalities must adopt a Shoreland Zoning Ordinance and must appoint a code enforcement officer, in accordance with 38 MRSA § 435-447. Individuals having the responsibility to enforce these ordinances, by municipal appointment, are recognized as Shoreland Zoning Code Enforcement Officers.

#### **B. CEO/Land Use Officers:**

Municipalities may adopt land use regulations other than Shoreland Zoning in accordance with Title 30-A MRSA § 3001-3003 *Ordinance Authority and Limitations*; and Title 30-A MRSA § 4301-4469 *Planning and Land Use Regulation Law*. Individuals who have been appointed by a municipality to enforce any municipal land use ordinances enacted to

implement a comprehensive plan, or specifically authorized to enforce other miscellaneous land use ordinances or rules, are recognized as Land Use Officers. Examples of other land use regulations might include a municipally adopted floodplain management ordinance or certain State Statutes, which include:

Junkyards, Auto Graveyards, Auto Recycling (30-A MRSA § 3751-3760),  
Public Nuisances (17 MRSA § 2802),  
Municipal Subdivision Law (30-A MRSA § 4401-4407),  
Small Gravel Pits (30-A MRSA § 3105), and  
Natural Resources Protection Act (38 MRSA § 480).

**C. CEO/Plumbing Inspectors:**

Municipalities must appoint a certified inspector of plumbing to administer and enforce both, the Internal and External Plumbing Rules (*State of Maine Internal Plumbing Rules* Title 30-A § 4201- 4223 and the *State of Maine Subsurface Waste Water Disposal Rules* Title 30-A MRSA § 4201- 4223). Individuals appointed by a municipality and having responsibility to enforce these rules and any local plumbing rules are recognized as Code Enforcement Officers/Local Plumbing Inspectors.

**D. CEO/Building Inspectors:**

Municipalities with a population of 2,000 or more, according to the U.S. Census, must provide for the inspection of buildings, in accordance with Title 25 MRSA § 2351. (Municipalities with lesser populations may also have such an inspector.) Individuals appointed by a municipality to enforce local building standards enacted pursuant to this Statute or Title 30-A, Chapters 141 and/or 185, are recognized as Code Enforcement Officers/Local Building Inspectors.

**E. Other Municipal Officials:**

In addition to the code enforcement officers described above, municipal officials who hold other titles and have a responsibility to conduct inspections and enforce local ordinances or applicable State laws, as described above, must also be certified by the Office. (Title 30-A M.R.S.A. § 4451)

## IV. CERTIFICATION STANDARDS AND REQUIREMENTS

Under Title 30-A MRSA § 4451 (2-A), individuals whose job responsibilities fall within the State's definition of code enforcement officer shall demonstrate competence through written examinations. All applicants for certification must successfully complete all examinations as determined by administrative rule.

### **Administrative Rule 07-105 CMR Ch. 300 Sect. 3(D) requires the following:**

- ***Legal Issues Exam*** – required of all applicants for certification; covers general knowledge and procedural skills of the code enforcement profession in Maine
- ***Specialty Area Exams*** – tests an applicant's knowledge of, and procedures related to, a specific area of code enforcement specialization; there are five separate specialty exams; one for each area of certification, covering knowledge and procedures specifically related to an assigned area of job responsibility
  - ❑ An applicant for certification must successfully complete the *Legal Issues Exam* and a *Specialty Area Exam* in order to achieve basic certification in a specialty subject area (e.g., land use, external plumbing, building standards). Once an individual passes both exams they are deemed fully certified for a given area of responsibility

**EXAMPLE:** An individual appointed to the position of CEO/Shoreland Zoning Officer is required to take both the *Legal Issues Exam* and the *Shoreland Zoning Specialty Exam*. They would not be required to take an exam in any other specialty area, unless they choose to do so.

**Each exam consists of two sections: a multiple-choice section and a case study section. The two sections are scored separately and the scores are then averaged.** Successful completion of an exam requires a score of at least 75 percent, however minimum scores of 70 percent are required on both the multiple-choice and the case study sections.

**EXAMPLE A:** An applicant for certification in *building standards* scores 94% on the multiple-choice section and 68% on the case study section resulting in an average total score of 81 percent. Despite getting a total average score of 81, he has not earned certification because he failed to score at least 70% on the case study section.

**EXAMPLE B:** An applicant for certification in *shoreland zoning* scores 74% on the multiple-choice section and 72% on the case study section resulting in an average total score of 73 percent. Although she has exceeded the minimum score required for each section, her total average score fails to meet the minimum requirement of 75 percent.

**EXAMPLE C:** An applicant for certification in *land use/zoning* scores 85% on the multiple-choice section and 74% on the case study section and thus earns certification with a total average score of 80 percent.

The certification examinations are offered at least four times a year. Every effort is made to ensure that exams are offered at a convenient location. The exam locations are: Auburn, Bangor, Presque Isle, and South Portland. Generally you are limited to taking two exams per day. You may take advantage of testing at other locations during the same month. Exams are offered free of charge for the first three attempts, after which a fee of \$75 will be charged for each reexamination. To determine the certification exams that must be taken, the Office conducts a review of the applicant's job description. This is the reason why having a job description is so important. The Rule requires that municipalities file a copy of their CEO's most recent job description with the Office.

## V. TRAINING

**The Office offers both basic and advanced level training in topics relevant to code enforcement and general professional development. The training is intended to provide essential information needed for certification and to enhance overall job performance.**

Every effort is made to provide workshops at locations convenient to most code officers. This means that we generally attempt to schedule sessions at three to five regional locations. In many instances we are able to rent classroom or auditorium space at the technical colleges or one of the other college campuses. Training is free for individuals holding appointment as a municipal code enforcement officer or local plumbing inspector. Upon appointment to a municipal CEO or LPI position the employer must notify the Office. Once official notification is received your name is added to our program database. If the Office does not have an appointment notice for you on file, you will be charged a fee for the workshop. Anyone not employed as a municipal CEO or LPI may attend the training, but they must pay a fee. These individuals may request that their name be added to our mailing list. Registration fees vary depending on the level and length of the training session.

Training session announcements and registration materials are mailed in advance to all individuals whose name is maintained in our program database. You must register for any workshop you plan on attending in the event that we must contact you for a cancellation notice. Training materials may be purchased separately at any time. Please refer to the publications list in the appendix of this booklet for an up-to-date listing. Training materials are provided to all municipally employed CEOs and LPIs free of charge.

Training workshops that benefit all code officers are listed below. In addition to basic-level sessions, there are advanced-level sessions dealing with the *specialty areas* of code enforcement. The job responsibilities of each individual dictate which workshops they will benefit from the most. For example, a code officer having job responsibilities in the areas of plumbing inspection, shoreland zoning, and land use will directly benefit from training geared towards *plumbing inspection, shoreland zoning, and land use/zoning*. No single *specialty area* of code enforcement exists in complete isolation. It is highly recommended that a CEO with responsibilities in one or more *specialty areas* first focus on training in those specific areas; as knowledge of primary responsibility increases begin to expand into the other areas. This will increase the code officer's competency and credibility.

**In preparing for the certification exams, it is important to plan your training and testing schedule for the 12-month period preceding the certification deadline.** Training manuals for each certification area are available directly from the Office. **In each training manual you will find specific “educational objectives” for the given subject material.** If you concentrate your self-study program on the learning objectives and understand the objective's intent you should be prepared to take the written certification exam. **The learning objectives are intended to help those preparing for certification exams to focus on the material that will be covered by the exams.**



It is impossible to take advantage of all of the training workshops covering one subject area during the 12-month grace period. This does not make meeting the 12-month certification deadline impossible. It does mean that you must have a plan. Too many individuals delay their testing until the last months and then find they are in a bind. Therefore, we strongly urge you to adopt a personal training & testing schedule. Our recommended testing program is strictly voluntary. You are under no requirement to follow it, however we urge you to consider its merits. The choice is yours.

- As a general rule, during every calendar year, we try to offer training in each specific area of certification. The exception to this rule is: *Court Rule 80K* and *Legal Issues & Enforcement Techniques*. These two courses are offered every other year on a rotating basis. For example, *Legal Issues* this year, *Rule 80-K* the next year, then *Legal Issues*, then *80-K*, and so on. Overall, the focus and frequency of specific CEO training is influenced by new legislation, case law and current events. Where possible, our schedule rotates between introductory-level and advance-level courses. For example, if we offered *Basic Shoreland Zoning* in 2000 it would not be offered again until 2002. However, we could choose to run an advance-level course such as *Hazard Trees in the Shoreland Zone* in the intervening year 2001.

**Trying to obtain all necessary re-certification credits in the final year of a five-year re-certification cycle is essentially impossible.** The reason is that most of our courses are one-day sessions and we follow a system of course rotation. For those individuals preparing for examinations, the program maintains a video lending library of past workshops. Training manuals are also available for home study. The program is in the process of developing study guides and training courses that will be accessed via the program's web site. These training tools are still in the development stage.

**The CEO Certification Voluntary Testing Schedule, Table-2 below, sets a voluntary deadline for testing. Essentially, every third month, on the anniversary date of your appointment, we recommend that you take an exam.** We set a priority for the specific order in which tests should be taken. You only need to complete the exams specifically required by your job description. You will note that the voluntary schedule does not include tests for internal and external plumbing. The reason is that certification is required prior to appointment as a local plumbing inspector.

**EXAMPLE:** A Voluntary Testing Schedule was developed for an imaginary CEO named Charlie Osgood. He works for the Town of Millvale, population of 2,005, with a Shoreland Zoning & General District Ordinance. Osgood was appointed as CEO/Building Inspector on November 12, 2000 and the 12-month grace period ends on November 12, 2001. Osgood is not the local plumbing inspector. **We would encourage Mr. Osgood to prepare to take the required tests on the following schedule, on a strictly voluntary basis:**

- ☐ *Legal Issues Exam* by February 12, 2001
- ☐ *Shoreland Zoning Exam* by May 12, 2001
- ☐ *Land Use Regulation Exam* by August 12, 2001
- ☐ *Building Standards Exam* by November 12, 2001

If Charlie Osgood diligently studied the available program training manuals, paying strict attention to the learning objectives provided, and attended the training sessions offered he could prepare himself to take the exams as scheduled. If he followed the schedule and passed the required exams he would be fully certified at the end of the 12-month grace period.

<b>CEO CERTIFICATION VOLUNTARY TESTING SCHEDULE</b>												
<b>NAME APPLICANT FOR CERTIFICATION:</b> CHARLIE E. OSGOOD												
<b>APPOINTED BY:</b> TOWN OF MILLVALE												
<b>DATE OF INITIAL APPOINTMENT:</b> NOV. 12, 2000												
<b>DATE CERTIFICATION REQUIRED BY:</b> NOV. 12, 2001												
<b>AREAS OF REQUIRED CERTIFICATION:</b> LEGAL ISSUES, SHORELAND ZONING, LAND USE, BUILDING STANDARDS												
<b>TESTING IN THE SUBJECT AREA IS SUGGESTED BY THE DATE INDICATED BELOW:</b>												
<b>SUBJECT AREA</b>	<b>1<sup>ST</sup> MONTH</b>	<b>2<sup>ND</sup> MONTH</b>	<b>3<sup>RD</sup> MONTH</b>	<b>4<sup>TH</sup> MONTH</b>	<b>5<sup>TH</sup> MONTH</b>	<b>6<sup>TH</sup> MONTH</b>	<b>7<sup>TH</sup> MONTH</b>	<b>8<sup>TH</sup> MONTH</b>	<b>9<sup>TH</sup> MONTH</b>	<b>10<sup>TH</sup> MONTH</b>	<b>11<sup>TH</sup> MONTH</b>	<b>12<sup>TH</sup> MONTH</b>
<b>LEGAL ISSUES/ ENFORCEMENT</b>			BY 2/12									
<b>SHORELAND ZONING</b>						BY 5/12						
<b>LAND USE REGULATION</b>									BY 8/12			
<b>BUILDING STANDARDS</b>												BY 11/12

**TABLE-2**

**Note: A blank Voluntary Testing Schedule is provided for your convenience in the Appendix of this guide. Contact the Office if you have questions regarding how to set up your own voluntary testing schedule.**

## VI. ADVANCED CERTIFICATION STANDARDS AND REQUIREMENTS

**Advanced certification is an option, made available by the Office, for those who achieve the required advanced-level credits.** Many individuals do this in order to expand their knowledge through continuing education in one or more specific areas of code enforcement. Advanced certification is available in each of the specific areas for which an individual can achieve certification or re-certification. An advanced certification may be initially achieved in several ways: (1) through participation in training programs sponsored by the Office comprised of classroom and field work; (2) provide the Office with documentation of previous training or work experience beyond that required for certification or re-certification; or (3) through a combination of the above.

**The Office does not provide training for every area of certification available. However, training in these areas is available through other institutions, organizations, and associations.** Any training you attend that is outside of the State's regular program must be approved by the Office prior to the issuing of any advanced credits. To submit a request for advanced credit certification, based upon outside training or experience, review the requirements below, review Section 5 of the Rule, and complete and return the form provided in the appendix of this booklet. The requirements for obtaining each advanced certificate are described below. For more information on advanced certification, see Section 5 of the Rule.

### ***Code Enforcement/Internal Plumbing***

- » **Acquire thirty-six (36) contact hours of documented related training or experience at an advanced level. A training program might include code work, plumbing practices, inspection techniques, and permit/report procedures.** Documentation of training must be provided to the Office. Such documentation may include, but is not limited to, certificates, diplomas, or licenses, such as:
  - Certificates awarding continuing education credits recognizing training in related topics
  - Diplomas from technical college programs in related areas
  - Certificates of achievement from nationally recognized organizations in related areas
  - Licenses granted by the State (i.e., plumber's license)
  - Letters of reference documenting experience gained working in one of the building trades

Each year of verifiable work experience (based upon 2,000 possible hours) in a related area, since achieving certification in internal plumbing inspection, may be substituted for one credit hour of training, up to 10 years. Documentation of work experience must be provided to the Office.

The Office will evaluate requests for advanced credit for training and experience, acquired through training programs not sponsored by the Office, according to criteria established by the Rule. Please review these criteria. If these criteria are assumed met, complete the form provided in the Appendix of this guide and return it with any necessary documentation (see Section XII).

### ***Code Enforcement/Subsurface Waste Water Disposal***

» **Acquire thirty-six (36) contact hours of documented related training or experience at an advanced level. A training program might include soils and site evaluation, *The State Subsurface Waste Water Disposal Rule*, inspection techniques, and permit and report procedures.** Documentation of training must be provided to the Office (see section VII). This documentation might include, but is not limited to, certificates, diplomas, or licenses, such as:

- Certificates awarding continuing education credits recognizing training in related topics
- Diplomas from technical college programs in related areas
- Certificates of achievement from nationally recognized organizations in related areas
- Professional licenses granted by the State in site evaluation, waste water treatment, etc.
- Voluntary State certification as a SSWD System Installer
- Letters of reference documenting experience gained working as a SSWD contractor

Each year of verifiable work experience (based upon 2,000 possible hours) in a related area, since achieving certification in external plumbing inspection, may be substituted for one credit hour of training, up to 10 years. Documentation of work experience must be provided to the Office.

The Office will evaluate requests for advanced credit for training and experience, acquired through training programs not sponsored by the Office, according to criteria established by the Rule. Please review these criteria. If these criteria are assumed met, complete the form provided in the Appendix of this guide and return it with any necessary documentation (see Section XII).

### ***Code Enforcement/Building Standards***

» **Meet the requirements of the Maine Building Officials and Inspectors Association, Masters Level course and examination; or acquire thirty-six (36) contact hours of documented related training or experience at an advanced level.** Documentation of training must be provided to the Office (see section VII). This documentation might include, but is not limited to, certificates, diplomas, or licenses, such as:

- Certificates awarding continuing education credits recognizing training in related topics
- Diplomas from technical college programs in related areas
- Certificates of achievement from nationally recognized organizations in related areas
- Professional licenses in related areas such as, electrical, mechanical, etc.
- Letters of reference documenting experience gained working in the building trades

Each year of verifiable work experience (based upon 2,000 possible hours) in a related area, since achieving certification in building inspection, may be substituted for one credit hour of training, up to 10 years. Documentation of work experience must be provided to the Office.

The Office will evaluate requests for advanced credit for training and experience, acquired through training programs not sponsored by the Office, according to criteria established by the Rule. Please review these criteria. If these criteria are assumed met, complete the form provided in the Appendix of this guide and return it with any necessary documentation (see Section XII).

### ***Code Enforcement/Shoreland Zoning***

- » **Attend advanced training sessions in Wetlands Identification and Delineation, Erosion/Sedimentation Control, Forestry in the Shoreland Zone, Hazard Tree Identification, etc. This training program consists of thirty-six (36) contact hours of classroom and fieldwork, as developed or the equivalent as approved by the Office.**

Each year of verifiable work experience (based upon 2,000 possible hours) in a related area, since achieving certification in shoreland zoning administration, may be substituted for one credit hour of training, up to 10 years. Documentation of work experience must be provided to the Office.

The Office will evaluate requests for advanced credit for training and experience, acquired through training programs not sponsored by the Office, according to criteria established by the Rule. Please review these criteria. If these criteria are assumed met, complete the form provided in the Appendix of this guide and return it with any necessary documentation (see Section XII).

### ***Code Enforcement/Land Use Regulation***

- » **Attend advanced training sessions in land use regulations involving subdivision regulations, floodplain management, planning board and appeals board procedures, property transfer, deed registration, title search, zoning theory, legal review of relevant State law and new case law. This training program will consist of thirty-six (36) contact hours of classroom and fieldwork, as developed or the equivalent approved by the Office.**

Each year of verifiable work experience (based upon 2,080 possible hours) in a related area, since achieving certification in land use and zoning, may be substituted for one credit hour of training, up to 10 years. Documentation of work experience must be provided to the Office.

The Office will evaluate requests for advanced credit for training and experience, acquired through training programs not sponsored by the Office, according to criteria established by the Rule. Please review these criteria. If these criteria are assumed met, complete the form provided in the Appendix of this guide and return it with any necessary documentation (see Section XII).

## VII. ADVANCED TRAINING

The Office has identified several areas where training beyond that offered for certification could be of interest and benefit to code enforcement officers. Advanced training applicable to code enforcement certification exists through professional organizations and technical colleges. The Office will continue to recognize these outside sources of training where appropriate and focus efforts of program development in those areas not available elsewhere.

The advanced training offered by the Office is planned under the assumption that those attending have a strong understanding of the introductory training curriculum in a given area and are prepared for more intensive training. Applicants for advanced certification can apply to the Office for credit for training previously completed, up to 10 years previous, in any of the areas identified below. The training under evaluation must be determined to be at least equivalent to that developed by the Office. Training requirements necessary for certification are summarized in parentheses next to the certification areas listed below.

**CODE ENFORCEMENT / INTERNAL PLUMBING (36 CONTACT HOURS):** Outside training is available. This might include: internal plumbing involving code work, inspection techniques, permit and report procedures; plumbing practices including new technology, materials, or design of engineered systems; cross connection inspection; laws and rules of access for the physically handicapped; other related advanced level training.

**CODE ENFORCEMENT / SUBSURFACE WASTEWATER DISPOSAL (36 CONTACT HOURS):** Outside training is available. This might include: subsurface waste water disposal involving the State Subsurface Wastewater Disposal Rules, inspection techniques, and permit and report procedures; treatment of special wastes; waste water treatment plant operation; soils and site evaluation, geology, water resources; other related advanced level training.

**CODE ENFORCEMENT / BUILDING STANDARDS (36 CONTACT HOURS):** Training is available from the Maine Building Officials and Inspectors Association, Masters Level certification program. Other equivalent training might include: building standards, building codes, building inspection techniques, erosion/sedimentation control measures, energy conservation standards, ADA Standards, NFPA 101 Life Safety Code, one- and two- family residential electrical inspections, and building construction technology.

**CODE ENFORCEMENT / SHORELAND ZONING (36 CONTACT HOURS):** Training available through the State Planning Office:

### **Forestry in the Shoreland Zone Workshop:**

- Related State Statutes
- Introduction to silviculture
- Harvesting practices selective cutting/clear cutting
- Measurement techniques for inspection
- Forestry Best Management Practices for erosion control

**Wetlands Identification and Delineation Workshop:**

- Wetland functions
- Impacts
- Wetland ecology
- Soils
- Maps and other resources
- Regulation and protection
- Field delineation of wetland boundary

**Erosion and Sedimentation Control Workshop:**

- Causation
- Best Management Practices
- Review of site plan / inspection schedule
- Inspection practices

**CODE ENFORCEMENT / LAND USE REGULATION (36 CONTACT HOURS):**

(Some of these courses may also apply under the Shoreland Zoning category.)

**Administration of Local Land Use Ordinances and Regulations**

(6 hrs. available through several regional planning groups)

- Zoning Theory
- review of relevant State laws
- Subdivisions regulation
- Planning Board and Appeals Board procedures
- Property transfer and Registration and Title Search

**Subdivision Law**

(12 hrs. available through several regional planning groups)

- Definition
- Jurisdiction
- Local administration

**Land Use Law Review and Update**

(6 hrs. available through the Maine Bar Association)

- Review and update of Misc. Laws related to Land Use

**Wetlands Identification and Delineation**

- Wetland functions
- Impacts
- Wetland ecology
- Soils
- Maps and other resources
- Regulation and protection
- Field delineation of wetland boundary

**Erosion and Sedimentation Control**

- Causation
- Best Management Practices
- Review of site plan / inspection schedule
- Inspection practices

**Issues in Floodplain Management**

- Development and the NFIP 50% Substantial Improvements Rule
- Determining market value
- Substantial damage
- Exceptions to The Rule
- National Flood Insurance Program
- Section 1316 as an enforcement tool

**Coastal Construction Practices**

- Explanation of forces at work in A and V Zones
- Review of Construction Standards in V Zones

**Riverine Flood Proofing**

- Explanation of forces at work in the riverine flood environment
- Dry floodproofing for nonresidential construction
- Wet flood-proofing in conjunction with flood warning and response systems

**Natural Resources Protection Act: Coordinating State and Local Enforcement**

- Overview of the NRPA
- Permit-by-Rule
- Case studies in Permit-by-Rule
- Wetlands permitting
- DEP's enforcement philosophy
- Case studies in full permitting
- Field review of NRPA enforcement cases



## VIII. CERTIFICATION IN COURT RULE 80-K

Violations involving land use ordinances or statutes may be prosecuted in District Court using Rule 80-K of the *Maine Rules of Civil Court Procedure*. Rule 80-K is a land use enforcement procedure. It provides a simpler, speedier, and less costly procedure for the prosecution of land use violations, by a code enforcement officer, rather than the alternative of prosecuting cases through a lawyer in Maine Superior Court. Rule 80-K may only be used at the District Court level. Under Rule 80-K, the District Court can order violators to pay fines and to stop or correct a violation. The rule of course authorizes lawyers, but more importantly it authorizes others, who are not lawyers, to represent the jurisdiction. The only stipulation is that such individuals be certified through the Office in Rule 80-K and must have the authorization of the jurisdiction they work for to prosecute 80-K cases. In addition to municipalities, the Maine DEP and LURC are also authorized to use 80-K in the prosecution of land use violations.

**In addition to the certification for municipal code enforcement officers set forth in Title 30-A MRSA § 4451, a separate certification must be obtained from the State Planning Office in order to prosecute land use violations using Rule 80K. Certification under Rule 80K is not necessary to become a certified code enforcement officer. It is only necessary if that CEO wishes to prosecute land use cases in District Court.** Certification under Rule 80K is also necessary for employees of the Department of Environmental Protection and employees of the Maine Land Use Regulation Commission who wish to use the process in the prosecution of the State requirements that they are authorized to enforce.

**A CEO certified in Rule 80-K and having the authorization of the municipal officers may prepare, serve, and file a Land Use Citation and Complaint in District Court in accordance with Title 30-A MRSA § 4452 and Civil Court Rule 80-K.** For a more detailed discussion of Rule 80-K and the preparation and prosecution of land use cases, CEO's should obtain a copy of the *Rule 80-K Enforcement Handbook* from the State Planning Office.

**CERTIFICATION REQUIREMENTS FOR RULE 80-K ENFORCEMENT & COURT TECHNIQUES:** Attend a 12-hour training program in legal issues and court techniques offered by the Office as "State of Maine Court Rule 80-K." This training program includes: preparatory classroom lectures on legal issues, court procedures necessary to use the 80K system, and a mock trial experience. Evaluation by examination (*Rule 80-K Exam*) is required to meet the requirements of Title 30-A M.R.S.A. § 4453, and Court Rule 80K of the Maine Rules of Civil Procedure. Certification is valid for a period of five years. Re-certification is achieved by attending at least 12 hours training within a five-year period.

Other training is available through the Maine State Bar Association and the Maine Municipal Association Legal Services Department. Other organizations also provide training and workshops applicable to Rule 80-K procedures.

## IX. EXAMINATIONS

**The Office offers certification exams at least four times year.** The exams are typically scheduled at four regional locations to accommodate most individuals. With few exceptions, the exams are scheduled during the last week of the months of January, April, July, and October. The exam schedule and a registration form may be found in the Appendix of this Guide. **The Office will not announce these exams by mail. You must register for the exam by using the form. Receipt of the registration form will allow the Office to schedule the exams at facilities large enough to accommodate the number of test takers who register.**

**When registering, keep in mind that it is possible to complete only two exams on a given day.** Any combination of exams may be taken on a given day. Individuals should consider the number of exams required for their position, recognize the number of exams permitted to be taken during one day, and plan an exam strategy according to the Schedule so that full certification is achieved before the expiration of the 12-month grace period. Please refer to Table-2 in Section V. Make sure that you return the exam registration form well in advance of the exam, allowing enough time for the Office to process your request. A confirmation will be sent to everyone registering for an exam. The confirmation will specify the date, location, and time of the exam. Where need is immediate and demonstrable, special requests for exams will be considered.

### **WHICH EXAMS NEED TO BE TAKEN?**

**The *Legal Issues Exam* is required of all applicants for certification and need only be successfully completed once.** For example, if an applicant is required to be certified in shoreland zoning and zoning/land use the following examinations will need to be successfully completed: *Legal Issues Exam*, *Shoreland Zoning Exam*, and *Land Use Regulation Exam*. The *Legal Issues Exam* covers general knowledge and procedural skills necessary to perform the task of code enforcement. Below is a list of exam required for certification based on job responsibility.

<u><b>AREA OF JOB RESPONSIBILITY:</b></u>	<u><b>EXAMINATIONS REQUIRED:</b></u>
<b>SHORELAND ZONING OFFICER</b>	Legal Issues Exam Shoreland Zoning Exam
<b>ZONING / LAND USE OFFICER</b>	Legal Issues Exam Land Use Regulation Exam
<b>BUILDING INSPECTOR</b>	Legal Issues Exam Building Standards Exam
<b>LOCAL PLUMBING INSPECTOR</b>	Legal Issues Exam Internal Plumbing Exam Subsurface Wastewater Disposal Exam

**TABLE-3**

## LEGAL ISSUES EXAM INFORMATION

**The *Legal Issues Exam* consists of two sections. The first section contains a total of 100 multiple-choice and true-false questions and is taken without benefit of resources (e.g., books, notes, etc.). It is based upon educational objectives from the *Legal Issues and Enforcement Techniques Manual*, as well as material from selected program training manuals. The second section is a case study or mock scenario that requires the applicant to apply their knowledge of standard procedures. For the practical exercise, necessary resources will be provided as needed.**

Following is a list of issues, concepts, and materials covered in the Legal Issues Exam. The associated State Statute citation is provided for some topics.

1. Legal Issues and Enforcement Techniques:
  - Legal authority and jurisdiction of a CEO
  - Record keeping and Maine's Freedom of Access Law (Title 1 § 401)
  - Permit application and permits procedure
  - Decision writing
  - Inspection authority, responsibility, and procedure
  - Notice of violation content and procedure
  - Administrative warrants
  - Option of using Civil Court Rule 80-K
2. Building Standards:
  - Areas of regulation required of municipalities by *Maine Revised Statutes Annotated*: Title 22 § 452; Title 25 § 2351; Title 25 § 2391; Title 30-A § 4221; Title 30-A § 4451; and Title 38 § 441.
3. Land Use Regulations:
  - Subdivision regulations (Title 30-A § 4401-4407)
  - Public nuisances
  - Local options for regulation
4. Floodplain Management:  
(also see Land Use Exam)
  - Purpose
  - Relationship with shoreland zoning
  - Relationship with State plumbing rules
5. Shoreland Zoning:
  - Purpose
  - Four areas of State override in shoreland zoning
  - Relationship with State plumbing rules

6. The educational objectives from the training manual *Legal Issues and Enforcement Techniques for Code Enforcement Officers* and general information about the other topics as listed above

## **SPECIALTY AREA EXAMS INFORMATION**

### **SHORELAND ZONING EXAM**

The *Shoreland Zoning Exam* is required for certification as a Shoreland Zoning/Code Enforcement Officer. The test contains 50 multiple-choice and true-false questions, taken without the benefit of resources. The test also includes a case study section in which the applicant, given resources, is asked to take appropriate action as a Shoreland Zoning/Code Enforcement Officer. The following list of issues, concepts, and materials will be covered in this examination. Where a State statute is cited the applicant is advised to review the law.

1. *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances*, as adopted by the Board of Environmental Protection March 24, 1990 and subsequent revisions
2. *Maine Revised Statutes Annotated*: Title 30-A §§ 4353, 4355, 4358; Title 30-A § 4401-4407; and Title 38 §§ 435, 436-A, 438-A, 439-A, 440
3. The duties and responsibilities of the CEO under the statutes referenced above
4. The State's override provisions to local shoreland zoning
5. The interrelationship of the State's plumbing regulations and floodplain management ordinances with shoreland zoning
6. The preliminary determination of a wetland boundary
7. The enforcement of forestry standards in the shoreland zone
8. The educational objectives from all related training manuals for shoreland zoning including *Shoreland Zoning with Incorporation of Best Management Practices*

### **BUILDING STANDARDS EXAM**

The *Building Standards Exam* is required for certification as a Building Inspector/Code Enforcement Officer. The test contains 50 multiple-choice and true-false questions, taken without benefit of resources. The test also includes a case study section in which the applicant, given resources, will match a given situation to a code requirement or noncompliance notification. The following list of issues, concepts, and materials will be covered in this examination. Where a State statute is cited the applicant is advised to review the law.

1. Permit application review procedure
2. Building Permits and other forms
3. Building Code types and purposes
4. Inspection procedures and checklists
5. Record keeping

6. *Maine Revised Statutes Annotated*: Title 25 §§ 2448, 2463, 2464; Title 25 § 2351-2361; Title 25 § 2701-2704; Title 30-A § 4101-4104; and Title 30-A § 4151-4174.
7. The educational objectives from all related training manuals including: *Introduction To Building Standards and Use of Building Codes*, *NEC/Residential Electrical Installation and Inspection*, *Building Standards: Energy Conservation*, *Building Standards: Life Safety*, and *Accessibility Standards & Requirements*.

## LAND USE REGULATION EXAM

The *Land Use Regulation Exam* is required for certification as a Land Use Officer/Code Enforcement Officer. The test contains 50 multiple-choice and true-false questions. This section is taken without the benefit of resources. The test also includes a case study section in which the applicant, given resources, is asked to take appropriate action as a Land Use Officer. The following list of issues, concepts, and materials will be covered in this examination. Where a State statute is cited the applicant is advised to review the law.

1. Regulation theory and performance standards
2. *Maine Revised Statutes Annotated* and federal laws that affect local administration and enforcement including: Comprehensive Planning and Land Use Regulation Act; Subdivision Law and local review (Title 30-A § 4401-4407); review standards and procedures to include introduction to best practices; Public nuisances (Title 17 § 2802); Junkyards (Title 30-A § 3751-3760)
3. Role of planning boards and appeals boards
4. The educational objectives from all related training manuals including: *Legal Issues & Enforcement Techniques*, *Zoning and Land Use Regulations*, and *Maine Floodplain Management Handbook*.

## PLUMBING INSPECTION EXAM

- INTERNAL PLUMBING
- EXTERNAL PLUMBING

The *Plumbing Inspection Exam* (which includes both the State's *internal* and *external rules* for plumbing) is required for certification as a Local Plumbing Inspector/Code Enforcement Officer. Because there are separate exams covering the *internal rules* and the *external rules* the test requires two full-length exam periods to complete. If you intend to complete the entire exam in a single day please schedule the entire day. The test format is similar to the other exams in that it is set up as follows: 50 multiple-choice and true-false questions dealing with the *internal rules*; case study scenario where the applicant must identify an *internal rule* requirement or draft a noncompliance notification; 50 multiple-choice and true-false questions dealing with the *external rules*; and a case study scenario where the applicant must identify an *external rule* requirement or draft a noncompliance notification. The following list of issues, concepts, and materials will be covered in this examination. Where a State statute is cited the applicant is advised to review the law.

1. Permit Application review procedure
2. Inspection procedures and checklists
3. Record keeping
4. *The State of Maine Internal Plumbing Rules*
5. *The State of Maine Subsurface Waste Water Disposal Rules*
6. *Maine Revised Statutes Annotated: Title 12 § 4807; Title 22 § 9-42; Title 30-A § 4201-4223; and Title 38 §§ 1160,1306,1602*
7. The educational objectives from all related training manuals including: *State of Maine Internal Plumbing Rules, State of Maine Subsurface Wastewater Disposal Rules, Subsurface Wastewater Disposal in Maine.*

## INFORMATION CONCERNING THE SCOPE OF EXAMS AND SAMPLE QUESTIONS

Every Office sponsored introductory training session offers a manual produced during program development that each participant receives. Within each manual there is a list of educational objectives. This list of objectives will serve as a guide to the examination questions that will cover the material of each training session. The introductory training manuals prepared by the Office include:

- *Legal Issues & Enforcement Techniques*
- *Introduction To Building Standards and Use of Building Codes*
- *NEC/Residential Electrical Installation and Inspection*
- *Building Standards: Energy Conservation Standards*
- *Building Standards: Life Safety*
- *Accessibility Standards & Requirements*
- *Zoning and Land Use Regulations*
- *Maine Floodplain Management Handbook*
- *Shoreland Zoning with Incorporation of Best Management Practices*
- *Subsurface Wastewater Disposal in Maine*

On the following pages are examples that illustrate the types of questions that the applicant will find on the first section of both the *Legal Issues Exam* and each of the *Specialty Area Exams*. **The first section is always taken without benefit of resources.** The educational objectives from the program training manuals serve as a study guide. In addition to the multiple-choice and true-false sections, each of the examinations has an additional section. This second section is a case study or mock scenario that the applicant will be asked to respond to. (i.e., take action relative to or justify it as if he/she were the code officer for the given town) **Ordinances, laws, forms, maps, and other necessary resources are always supplied to the applicant for taking section two of the examination. Applicants are encouraged to bring their own reference materials to use on the second section of the exams.**

## LEGAL ISSUES EXAM

1. The local code enforcement officer derives authority from local ordinances.  
True                      False                      Answer: True
2. The local code enforcement officer derives authority from:
  - a. National legislation
  - b. State or local mandate
  - c. Executive orders
  - d. Local ordinances**
3. A local code enforcement officer may enter any building to inspect the property or building for compliance with laws and ordinances at reasonable hours without the consent of the owner, occupant, or agent.  
True                      **False**
4. A local code enforcement officer may enter any building to inspect for compliance with laws and ordinances. What are the two conditions (both of which must be met) that allow this entrance?
  - a. During the morning hours and with the consent of owner
  - b. With the consent of owner and during reasonable hours**
  - c. Only with the owner and at the hour specified
  - d. Only if invited and with another local official

## SHORELAND ZONING EXAM

1. Municipalities must appoint a code enforcement officer to enforce a local Shoreland Zoning ordinance by July 1 of each year.  
**True**                      False
2. Which of the following is the date by which a municipality must appoint a code enforcement officer each year?
  - a. April 15
  - b. July 1**
  - c. August 1
  - d. September 1
3. Which of the following is not an intent of the Shoreland Zoning Act?
  - a. Protect water quality
  - b. Protect established residences**
  - c. Protect wildlife habitat
  - d. Conserve public access

4. The purposes of the Shoreland Zoning Act are to protect water quality, wildlife habitat, residential sites, and wetlands.  
True                      **False**

#### **BUILDING STANDARDS EXAM**

1. The primary intent of building code regulations is to provide reasonable control for the construction, use, and occupancy of the building, and all of the various components.  
**True**                      False
2. The primary intent of building code regulations is:  
a. Provide necessary engineering advice  
b. Raise the standard of the construction industry  
c. Select the best building practice  
**d. Provide reasonable construction control**
3. There are two types of building codes: specification codes and performance codes.  
**True**                      False
4. The two types of building codes are:  
a. Site and materials  
b. Cost and materials  
**c. Specification and performance**  
d. Site and specification

#### **LAND USE REGULATION EXAM**

1. In Maine, structures that are built in a floodplain must have their lowest floor including the basement, how far above the 100-year flood elevation:  
a. 3 ft.  
b. 5 ft.  
c. 2 ft.  
**d. 1 ft.**
2. All structures built in Maine within a floodplain must elevate the first floor, to include basements, 2 feet above the 100-year flood elevation.  
True                      **False**
3. In Maine, all zoning ordinances must be in compliance with the stated intent and goals of a municipal comprehensive plan.  
**True**                      False



4. Zoning variances may be granted only by:
  - a. Planning boards
  - b. Town managers
  - c. Code enforcement officers
  - d. Boards of appeals**

## X. RE-CERTIFICATION REQUIREMENTS

### **IMPORTANT INFORMATION!**

- It is your personal responsibility to maintain your certification.
- Maine law requires a program of continuing education to earn credits for re-certification.
- Certifications are valid for five (5) years.
- Certification must be maintained in all areas of job responsibility.
- Failure to meet this requirement will result in the loss of your State certification.
- Without certification you cannot work as a code enforcer in Maine.

### **TABLE-4**

**Certified code officers who intend to maintain their certification status must attend a minimum of twelve (12) hours of *approved continuing education* in each area of code enforcement for which they are responsible, as well as attending twelve (12) hours in the area of legal issues and/or enforcement techniques.** The Office will not re-certify you until you have met all re-certification requirements. **There are no exceptions.** Continuing education must be sponsored by the Office or an Office-approved outside agency or organization.

**You cannot begin accruing credits for re-certification until you first earn initial certification.** Once initial certification has been achieved through examination, any training program related to an area or areas of certification, or an advanced area, sponsored by the Office may be credited toward re-certification in the most appropriate area.

Often training is applicable to more than one area of certification, but may be credited only once. The Office applies the credit where it is most appropriate for each individual, unless requested to do otherwise. **Each individual will receive a summary of accumulated credits on an annual basis.** Where an individual eligible for re-certification falls short of meeting required credits in an area, advanced training credits will be transferred for re-certification credit. Advanced program credits will otherwise be held for credit towards an advanced certification.

## XI. ADVANCED RE-CERTIFICATION

Advanced re-certification requires an individual to complete 24 credits hours of current advanced-level training in a specialty area within a 5-year period. Credits for advanced re-certification shall be concurrently applied toward re-certification of corresponding certifications in Specialty Areas.

**EXAMPLE:** A code officer achieves Advanced Shoreland Zoning Certification by completing 24 hours of advanced continuing education. This means that in addition to the advanced certification, they have also met the re-certification requirements necessary for basic certification in Shoreland Zoning. During the next five years certification cycle they must earn 24 credits to retain the advanced certification. If they only earn 12 credits they will lose advanced status, but will retain basic status. If they fail to earn at least 12 credits they will lose both certifications.

## XII. DOCUMENTING RELEVANT WORK AND TRAINING FOR CREDIT

The purpose of this section is to help you, the applicant, obtain correct documentation of the relevant work and training experiences for which you may choose to petition the Office for the reason of obtaining credit. The following methods have been determined by the Office as the most reasonably certain and reliable, based on the fact that persons certifying an applicant's claim of experience, as well as applicants themselves, are fully responsible for the content of letters of verification, and therefore liable for false statements, and any resulting consequences. **With approval of the Office, the Rule provides for the following options:**

- Credit for continuing education obtained through educational institutions or professional organizations
- Credit granted toward advanced-level certification based upon relevant work experience and/or training

All requests for training credit should be submitted on the form provided in the appendix of this booklet. A certificate, diploma, or official transcript must accompany the form where applicable. For training other than institutional (college, trade school, national organization) credit programs, an agenda, outline, or synopsis briefly describing the content of the training and some form of verification of an individual's attendance must accompany the form or letter of request. Verification of attendance must specify the actual number of contact hours an individual was engaged in training (excludes time provided for breaks and lunch) and must be signed by the instructor or his/her representative. A registration list submitted by the sponsor is preferred. A request may be sent without verification when the organization or the trainer submits a registration list directly to the Office.

All requests for work experience credit should be submitted on the form provided in the Appendix. Supporting documentation that verifies employment must be attached with the request. Company letterhead should be used, where available. Beginning and ending dates of an applicant's employment are to specify the month, day, and year. All letters or affidavits for work experience acquired as a municipal employee must be signed by authorized personnel only. They must be dated and notarized as "subscribed and sworn to". The official title of the authorized person attesting to the applicant's experience must be indicated beneath their closing signature.

### XIII. REQUIRED ELEMENTS IN A JOB DESCRIPTION

For those reviewing or creating a job description for a Code Enforcement Officer, please remember that there is no "model" job description. All municipalities have different duties and criteria for their employees. **Because each Maine town is so different in its particular code enforcement needs, there are probably as many different job descriptions as there are code enforcement officers. The job description should meet the needs of the community.** You should contact the Maine Municipal Association for up-to-date samples of municipal employee job descriptions for code enforcement positions. Another possibility is to ask communities with code enforcement needs similar to yours to share their job descriptions with you. In this way you can review various samples and then "create" one with your town's needs in mind.

**For the record, there are certain elements of a CEO job description that are essential for the Office's needs in determining the certification requirements of an individual.** In reality they are actually elements that are common to any well designed and prepared job description. **These elements should define the relationship between the employee and the other local officials with whom they will come into direct contact regarding the job. Experience has suggested that laying a solid foundation before this relationship develops will help to prevent uncomfortable situations down the road.** What the office is looking for need not be very specific, but if specificity meets your needs, it will meet ours.

#### **The job description should:**

Offer an introduction that generally identifies the role of the code enforcement officer in the over-all function of the town administration.

Specify the code enforcement officer's official title(s).

Specify laws, regulations, ordinances, and codes that the code enforcement officer is sworn to enforce within the municipality. The reference should briefly describe the ordinance, especially those ordinances governing development issues. Add State statutes that the town has specifically authorized the CEO to enforce.

**IMPORTANT:** If serving as a municipal building inspector, specify whether the employee enforces a locally adopted building code (i.e., model building code) or is appointed under Title 25 MRSA Chapter 313, with no local building code to enforce.

Identify the other people and Boards whom the Code Officer is obligated to be involved with and outline the function he or she serves with them. *Does he/she serve as staff for the planning board? Which board meetings, if any, is he/she required to attend?*

List general and/or specific duties and responsibilities.

Identify the Code Enforcement Officer's authority.

## XIV. STATE STATUTES REGULATING CODE ENFORCEMENT

### **TITLE 30-A MRSA § 4451**

#### **§ 4451. Training and certification for code enforcement officers**

**1. Certification required; exceptions.** Beginning January 1, 1993, a municipality may not employ any individual to perform the duties of a code enforcement officer who is not certified by the office, except that:

- A.** An individual other than an individual appointed as a plumbing inspector has 12 months after beginning employment to be trained and certified as provided in this section; and
- B.** Whether or not any extension is available under paragraph A, the office may waive this requirement for up to one year if the certification requirements cannot be met without imposing a hardship on the municipality employing the individual; and
- C.** An individual may be temporarily authorized in writing by the Department of Human Services, Division of Health Engineering to be employed as a plumbing inspector for a period not to exceed 12 months.

A person employed by a municipality or municipalities as a code enforcement officer for at least 3 years prior to January 1, 1990 is deemed certified under this section and, 5 years after the effective date of this paragraph, is subject to the recertification requirements of subsection 6.

**2. Penalty.** Any municipality that violates this section commits a civil violation for which a forfeiture of not more than \$100 may be adjudged. Each day in violation constitutes a separate offense.

**2-A. Code enforcement officer; definition and duties.** As used in this subchapter, "code enforcement officer" means a person certified under this section and employed by a municipality to enforce all applicable laws and ordinances in the following areas:

- A.** Shoreland zoning under Title 38, chapter 3, subchapter I, article 2-B;
- B.** Comprehensive planning and land use under Part 2, Subpart VI-A;
- C.** Internal plumbing under chapter 185, subchapter III;
- D.** Subsurface waste water disposal under chapter 185, subchapter III; and
- E.** Building standards under chapter 141; chapter 185, subchapter I; and Title 25, chapters 313 and 331.

**3. Training and certification of code enforcement officers.** In cooperation with the Maine Technical College System, the Department of Environmental Protection, and the Department of Human Services, the office shall establish a continuing education program for individuals engaged in code enforcement. This program must provide basic and advanced training in the technical and legal aspects of code enforcement necessary for certification.

**4. Examination.** The office shall conduct at least one examination each year to examine candidates for certification at a time and place designated by it. The office may conduct additional examinations to carry out the purposes of this subchapter.

**5. Certification standards.** The office shall establish by rule the qualifications, conditions and licensing standards and procedures for the certification and recertification of individuals as code enforcement officers. A code enforcement officer need only be certified in the areas of actual job responsibilities. The rules established under this subsection must identify standards for each of the areas of training under subsection 2-A, in addition to general standards that apply to all code enforcement officers.

**6. Certification; term; revocation.** The office shall certify individuals as to their competency to successfully enforce ordinances and other land use regulations and permits granted under those ordinances and regulations and shall issue certificates attesting to the competency of those individuals to act as code enforcement officers. Certificates are valid for 5 years unless revoked by the Administrative Court. An examination is not required for recertification of code enforcement officers. The office shall recertify a code enforcement officer if the code enforcement officer successfully completes at least 12 hours of approved training in each area of job responsibility during the 5-year certification period.

**A.** The Administrative Court may revoke the certificate of a code enforcement officer, in accordance with Title 4, chapter 5, when it finds that:

- (1) The code enforcement officer has practiced fraud or deception;
- (2) Reasonable care, judgment or the application of a duly trained and knowledgeable code enforcement officer's ability was not used in the performance of the duties of the office; or
- (3) The code enforcement officer is incompetent or unable to perform properly the duties of the office.

**B.** Code enforcement officers whose certificates are invalidated under this subsection may be issued new certificates provided that they are newly certified as provided in this section.

**7. Other professions unaffected.** This subchapter may not be construed to affect or prevent the practice of any other profession.

## **TITLE 30-A § 4452**

### **§ 4452. Enforcement of land use laws and ordinances**

**1. Enforcement.** A municipal official, such as a municipal code enforcement officer, local plumbing inspector or building inspector, who is designated by ordinance or law with the responsibility to enforce a particular law or ordinance set forth in subsection 5, 6 or 7, may:

**A.** Enter any property at reasonable hours or enter any building with the consent of the owner, occupant or agent to inspect the property or building for compliance with the laws or ordinances set forth in subsection 5. A municipal official's entry onto property under this paragraph is not a trespass;

- B. Issue a summons to any person who violates a law or ordinance, which the official is authorized to enforce; and
- C. When specifically authorized by the municipal officers, represent the municipality in District Court in the prosecution of alleged violations of ordinances or laws, which the official is authorized to enforce.

**2. Liability for violations.** Any person, including, but not limited to, a landowner, the landowner's agent or a contractor, who violates any of the laws or ordinances set forth in subsection 5 or 6 is liable for the penalties set forth in subsection 3.

**3. Civil penalties.** The following provisions apply to violations of the laws and ordinances set forth in subsection 5. Except for paragraph H, monetary penalties may be assessed on a per-day basis and are civil penalties.

- A. The minimum penalty for starting construction or undertaking a land use activity without a required permit is \$100, and the maximum penalty is \$2,500.
- B. The minimum penalty for a specific violation is \$100, and the maximum penalty is \$2,500.
- C. The violator may be ordered to correct or abate the violations. When the court finds that the violation was willful, the violator shall be ordered to correct or abate the violation unless the abatement or correction results in:
  - (1) A threat or hazard to public health or safety;
  - (2) Substantial environmental damage; or
  - (3) A substantial injustice.
- C-1. Notwithstanding paragraph C, for violations of the laws and ordinances set forth in subsection 5, paragraph Q, the violator shall be ordered to correct or mitigate the violation unless the correction or mitigation results in:
  - (1) A threat or hazard to public health or safety;
  - (2) Substantial environmental damage; or
  - (3) A substantial injustice.
- D. If the municipality is the prevailing party, the municipality must be awarded reasonable attorney fees, expert witness fees and costs, unless the court finds that special circumstances make the award of these fees and costs unjust. If the defendant is the prevailing party, the defendant may be awarded reasonable attorney fees, expert witness fees and costs as provided by court rule.
- E. In setting a penalty, the court shall consider, but is not limited to, the following:
  - (1) Prior violations by the same party;
  - (2) The degree of environmental damage that cannot be abated or corrected;
  - (3) The extent to which the violation continued following a municipal order to stop; and
  - (4) The extent to which the municipality contributed to the violation by providing the violator with incorrect information or by failing to take timely action.
- F. The maximum penalty may exceed \$2,500, but may not exceed \$25,000, when it is shown that there has been a previous conviction of the same party within the past 2 years for a violation of the same law or ordinance.



- G The penalties for violations of waste discharge licenses issued by the municipality pursuant to Title 38, section 413, subsection 8, or violations of a septage land disposal or storage site permit issued by the Department of Environmental Protection under Title 38, chapter 13, subchapter 1, are as prescribed in Title 38, section 349.
- H If the economic benefit resulting from the violation exceeds the applicable penalties under this subsection, the maximum civil penalties may be increased. The maximum civil penalty may not exceed an amount equal to twice the economic benefit resulting from the violation. Economic benefit includes, but is not limited to, the costs avoided or enhanced value accrued at the time of the violation as a result of the violator's noncompliance with the applicable legal requirements.

**4. Proceedings brought for benefit of municipality.** All proceedings arising under locally administered laws and ordinances shall be brought in the name of the municipality. All fines resulting from those proceedings shall be paid to the municipality.

**5. Application.** This section applies to the enforcement of land use laws and ordinances or rules which are administered and enforced primarily at the local level, including:

- A. The plumbing and subsurface waste water disposal rules adopted by the Department of Human Services under Title 22, section 42, including the land area of the State which is subject to the jurisdiction of the Maine Land Use Regulation Commission;
- B. Laws pertaining to public water supplies, Title 22, sections 2642, 2647 and 2648;
- C. Local ordinances adopted pursuant to Title 22, section 2642;
- D. Laws administered by local health officers pursuant to Title 22, chapters 153 and 263;
- E. Laws pertaining to fire prevention and protection, which require enforcement by local officers pursuant to Title 25, chapter 313;
- F. Laws pertaining to the construction of public buildings for the physically disabled pursuant to Title 25, chapter 331;
- G. Local land use ordinances adopted pursuant to section 3001;
- H. Local building codes adopted pursuant to sections 3001 and 3007;
- I. Local housing codes adopted pursuant to sections 3001 and 3007;
- J. Laws pertaining to junkyards, automobile graveyards and automobile recycling businesses and local ordinances regarding junkyards, automobile graveyards and automobile recycling businesses, pursuant to chapter 183, subchapter I.
- K. Local ordinances regarding electrical installations pursuant to chapter 185, subchapter II;
- L. Local ordinances regarding regulation and inspection of plumbing pursuant to chapter 185, subchapter III;
- M. Local ordinances regarding malfunctioning subsurface waste water disposal systems pursuant to section 3428;
- N. The subdivision law and local subdivision ordinances adopted pursuant to section 3001 and subdivision regulations adopted pursuant to section 4403;
- O. Local zoning ordinances adopted pursuant to section 3001 and in accordance with section 4352;
- P. Waste water discharge licenses issued pursuant to Title 38, section 413, subsection 8;

Q. Shoreland zoning ordinances adopted pursuant to Title 38, sections 435 to 447, including those which were state-imposed; and

R. The laws pertaining to harbors in Title 38, chapter 1, subchapter I, local harbor ordinances adopted in accordance with Title 38, section 7 and regulations adopted by municipal officers pursuant to Title 38, section 2.

**6. Septage and sludge permits issued by the Department of Environmental Protection.** A municipality, after notifying the Department of Environmental Protection, may enforce the terms and conditions of a septage land disposal or storage site permit or a sludge land application or storage site permit issued by the Department of Environmental Protection pursuant to Title 38, chapter 13, subchapter 1.

**7. Natural resources protection laws.** A code enforcement officer, authorized by a municipality to represent that municipality in District Court and certified by the State Planning Office under section 4453 as familiar with court procedures, may enforce the provisions of the natural resources protection laws, Title 38, chapter 3, subchapter I, article 5-A and Title 38, section 420-C, by instituting injunctive proceedings or by seeking civil penalties in accordance with Title 38, section 349, subsection 2.

## **Title 30-A § 4453**

### **§ 4453. Certification for representation in court**

The office shall establish certification standards and a program to certify familiarity with court procedures for the following individuals:

**1. Code enforcement officers.** Code enforcement officers as set forth in sections 4451 and 4452 and Title 38, section 441;

**2. Plumbing inspectors.** Plumbing inspectors as set forth in sections 4221 and 4451;

**3. Department of Environmental Protection.** Department of Environmental Protection employees as set forth in Title 38, section 342, subsection 7; and

**4. Maine Land Use Regulation Commission.** Maine Land Use Regulation Commission employees as set forth in Title 12, section 685-C, subsection 9.

## **TITLE 30-A § 4221**

### **§ 4221. Plumbing inspectors**

**1. Appointment; compensation; removal.** In every municipality, the municipal officers shall appoint one or more inspectors of plumbing, who need not be residents of the municipality for which they are appointed. Plumbing inspectors are appointed for a term of one year or more and must be sworn and the appointment recorded as provided in section 2526, subsection 9. An

individual properly appointed as plumbing inspector and satisfactorily performing the duties may continue in that capacity after the term has expired until replaced. The municipal officers shall notify the department and the State Planning Office of the appointment of a plumbing inspector in writing within 30 days of the appointment.

Compensation of plumbing inspectors is determined by the municipal officers and paid by the respective municipalities.

The municipal officers may remove a plumbing inspector for cause, after notice and hearing.

**2. Certification requirements.** A person may not hold the office of plumbing inspector unless currently certified as qualified by the State Planning Office pursuant to section 4451. Certification is effective for a period of 5 years unless sooner revoked or suspended by the Administrative Court as provided for in section 4451.

**3. Duties.** Plumbing inspectors shall:

- A. Inspect all plumbing for which permits are granted, within their respective municipalities, to ensure compliance with state rules and municipal ordinances and investigate all construction or work covered by those rules and ordinances;
  - B. Condemn and reject all work done or being done or material used or being used which does not comply with state rules and municipal ordinances, and order changes necessary to obtain compliance;
  - C. Issue a certificate of approval for any work that the inspector has approved;
  - D. Keep an accurate account of all fees collected and transfer those fees to the municipal treasurer;
  - E. Keep a complete record of all essential transactions of the office;
  - F. Perform other duties as provided by municipal ordinance; and
- Investigate complaints of alleged violations relating to plumbing or subsurface waste water disposal and take appropriate action as specified by the department by rule in the State of Maine
- G. Enforcement Manual, Procedures for Correcting Violations to the Subsurface Waste Water Disposal and Plumbing Rules.

**4. Inspections and permits not required.** Plumbing inspections and permits are not required for:

- A. Minor plumbing work or minor installations that are performed in compliance with state laws and rules if that plumbing work or those installations are done inside the structure of a private residence by the owner of that residence; and
- B. Installation of domestic heating appliances by master oil burner technicians licensed pursuant to Title 32, chapter 33.

## XV. CEO PROGRAM TRAINING AND CERTIFICATION RULE

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### **Municipal Code Enforcement Officer Qualifications and Certification Standards Rule**

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#### **CODE OF MAINE REGULATIONS**

**07-105            Executive Department  
                     State Planning Office**

**Chapter 300      Municipal Code Enforcement Officer  
                     Qualifications and Certification  
                     Standards Rule**

**Summary:** This Chapter establishes the qualifications, conditions, licensing standards and procedures for the certification and recertification of municipal code enforcement officers in the State of Maine as required by 30-A M.R.S.A. § 4451 (5). This Rule repeals and replaces the Rule adopted in December of 1991.

#### **Section 1. Purpose**

##### **A. Purpose**

The primary purpose of this rule is to establish the standards, qualifications, and procedures that the State Planning Office uses to certify and recertify local code enforcement officers. The rule establishes the minimum standards required of all code enforcement officers appointed in the State of Maine, and establishes the basic and advanced standards in specific areas of municipal code enforcement.

##### **B. Principles**

1. Maine municipalities are diverse in terms of their size, goals, problems, issues, personnel, ordinances, and processes. The job responsibilities of their code enforcement officers are also diverse and varied, while still providing enforcement of local ordinances. The certification of these officers should be flexible so as to accommodate the existing diversity. Certification should reflect areas of job responsibilities.
2. The goals of the State toward natural resources management, land use and development will be enhanced by more uniform enforcement of rules and ordinances.
3. A professional code enforcement community will be enhanced by uniform standards.

4. The State recognizes the experience of code enforcement officers working in the field prior to the enactment of these regulations.
5. The continuing education nature of the training should be emphasized in order to present to participants the most up to date materials and procedures.
6. The training program should provide information and other assistance to the local code enforcement officer.
7. The training program should be made as available to participants as possible by presenting the training at different locations and in different formats.
8. While the standards for certification should remain constant, the materials upon which they are based should be flexible and changing.
9. The State recognizes the value of technical assistance to municipalities which enables them to manage the protection of resources and the health and safety of their citizens.

## **Section 2. Definitions**

The following terms, as used in this chapter, shall have the following meanings, unless the context indicates otherwise:

### **A. Code Enforcement Officer:**

“Code Enforcement Officer” shall mean an individual who has been appointed and sworn by a municipality to enforce law and/or ordinances in any one or more of the following areas of responsibility:

1. The State of Maine Plumbing Code adopted pursuant to 30-A M.R.S.A. § §4201-4223.
2. The State of Maine Subsurface Wastewater Disposal Rules adopted pursuant to 30-A M.R.S.A. §§4201- 4223.
3. Local Building Standards adopted pursuant to 25 M.R.S.A. §§2351-2361 and 2701-2704, and 30-A M.R.S.A. §§4101- 4104 and 3001-3003.
4. Shoreland Zoning under a local ordinance adopted or imposed pursuant to 38 M.R.S.A. §§435 - 447.
5. Comprehensive planning and other land use ordinances adopted pursuant to 30-A M.S.R.A. §§3001-3003 and 4301- 4469.

B. Certification:

1. Certification:

“Certification” shall mean a written notification from the Office that a particular individual may act as a local code enforcement officer having demonstrated an introductory understanding of rules, laws, and procedures required of all Code Enforcement Officers and a more detailed understanding of the rules, laws, and procedures in those specific areas of his or her job responsibility.

This certification does not replace any other certification required by State or local law or rule.

2. Advanced Certification:

“Advanced Certification” shall mean a written notification from the Office that a particular individual has met the training and experience standards of Section 5 of this rule.

3. 80K Certification:

“80K Certification” shall mean a written notification from the Office that a particular individual has shown a familiarity with District Court procedures for the prosecution of alleged land use violations pursuant to Rule 80K of the Maine Rules of Civil Procedures and 30-A M.R.S.A. § 4453.

C. Contact hour:

“Contact hour” shall mean one hour actually spent in a training session, i.e., class, field work, or other learning activity.

D. Degree:

“Degree” shall mean a document issued by a recognized institution of learning, which verifies completion of a course of study, including diplomas, certificates, or official transcripts indicating the same.

E. Examination:

“Examination” shall mean the testing process through which a candidate acquires Certification, as described in sections 3 and 6 of this rule. The testing will be accomplished by written examination.

F. Office:

“Office” shall mean the State Planning Office.

G. Training:

1. Training:

“Training” shall mean those continuing education sessions offered by the Office, in cooperation with other State agencies, individuals, and programs which are presented at an introductory level applicable to all code enforcement officers.

2. Advanced Training:

“Advanced Training” shall mean those continuing education sessions exceeding the introductory level, which are provided by educational institutions, State government, or national or State professional organizations and approved by the Office.

3. 80K Training:

“80K Training” shall mean education sessions which are provided by recognized educational institutions, State government, or State professional organizations, which address court procedures and related issues.

4. Training Schedule:

“Training Schedule” shall mean the published list of training and advanced training workshops proposed for a given year.

**Section 3. Certification Standards and Procedures**

- A. As of January 1, 1993 every municipal code enforcement officer shall be required to obtain Certification from the Office, except as provided in Section 7.
- B. A Certification shall be valid for a period of five years.
- C. Certification will be issued by the Office in the following areas:
  - 1. Enforcement of the State of Maine Plumbing Code adopted pursuant to 30-A M.R.S.A. §§4201- 4223.
  - 2. Enforcement of The State of Maine Subsurface Wastewater Disposal Rules adopted pursuant to 30-A M.R.S.A. A. §§4201- 4223.
  - 3. Enforcement of local building standards adopted pursuant to 25 M.R.S.A. §§2351- 2361 and 2701-2704, and 30-A M.R.S.A. §§4101- 4104 and 3001-3003.

4. Enforcement of Shoreland Zoning Ordinances adopted or imposed pursuant to 38 M.R.S.A. §§ 435- 447.
  5. Enforcement of local land use ordinances adopted pursuant to 30-A M.R.S.A. §§3001-3003 and 4301- 4469.
- D. Certification shall be issued upon successful completion of examinations which must include the Legal Issues examination, and at least one examination in a specific area of code enforcement as listed in section 3(C) of this rule.
1. The Legal Issues examination shall test general knowledge and legal issues and enforcement techniques pertinent to all areas of code enforcement.
  2. Specific Area examinations shall test knowledge of codes or other regulations relevant to an area of code enforcement. The level of knowledge shall be introductory. An individual need only take the Specific Area examinations that reflect his or her areas of job responsibilities.
  3. A score of 75% or better on each exam shall constitute successful completion.
  4. The examination(s) shall be offered, at least, four times yearly at dates and locations determined by the Office.
  5. Unsuccessful candidates for certification may be reexamined without prejudice at the next scheduled examination.
  6. Examinations will be offered free of charge for the first three attempts, after which a fee will be charged for each reexamination.
- E. The Legal Issues examination shall include the following topics:
- Legal authority of a code enforcement officer, applicable laws and rules, structure and practice of the municipal code enforcement office, municipal planning board and appeals board procedures, application review and permitting procedures, inspection procedures, and enforcement techniques.
- These topics together constitute the area of code enforcement known as Legal Issues.
- F. Specific Area examinations shall be offered in the following areas:
- Code Enforcement /Internal Plumbing**  
State of Maine Plumbing Code, applicable laws, plumbing practices, application review and permitting report procedure, and inspection and enforcement techniques.



**Code Enforcement /Subsurface Wastewater Disposal**

The State of Maine Subsurface Wastewater Disposal Rule, applicable laws, soils and site evaluation, review and permitting, report procedure and inspection and enforcement techniques.

**Code Enforcement/Building Standards**

Applicable State Laws, building code purposes and organization, review and permitting, report procedure, occupancy approval requirements, and inspection and enforcement techniques.

**Code Enforcement Shoreland Zoning**

Applicable State Laws, State Shoreland Zoning Guidelines, wetlands identification and delineation techniques, review and permitting, report procedure, and inspection, and enforcement techniques.

**Code Enforcement/Zoning and Land Use Regulation**

Applicable local, State, and federal land use regulations, zoning, municipal planning board and appeals board procedures, floodplain management, State subdivision law, site plan review, review and permitting, report procedure, and inspection and enforcement techniques.

- G. The Office shall publish, annually, a training schedule.
- H. Workshop training manuals will be made available to any candidate for certification or recertification upon request. A fee may be charged by the Office to cover the costs of printing and distribution of training and certification materials. These fees shall be borne by the Office for municipally employed code enforcement officers.

**Section 4. Standards and Procedures for Recertification**

- A. All code enforcement officers must be recertified within five (5) years of obtaining any certification.
- B. A candidate for recertification must demonstrate, by continuing education, that he or she has remained current in each area of his or her job responsibilities.
- C. Legal Issues, as described in section 3(E), is considered a separate area of responsibility for purpose of recertification.
- D. A candidate for recertification must file, with the Office, evidence of successful completion of twelve (12) contact hours of continuing education credits for each area of job responsibility within the five year certification period.
  - 1. Continuing education may be either topic selections from the current training schedule, or topic selections from another training program dealing with one or more

of the code enforcement areas listed in section 2(A). Training must be applicable as determined by the Office.

2. Continuing education Training credits may not be applied toward recertification in more than one (1) area of code enforcement.
  3. Continuing education credit for training other than that offered by the Office must be approved by the Office. Applications for credit must be filed with the Office.
- E. Credit for recertification of an Advanced Certification pursuant to section 5 (C) shall be concurrently applied as credit to recertify an individual in the same area of certification.

NOTE: For example, an individual who has achieved an Advanced Shoreland Zoning Certification and has completed the required continuing education necessary to recertify the Advanced Certification, has also met the recertification requirements necessary for his or her introductory Shoreland Zoning Certification. However, failure to recertify the Advanced Certification without providing for recertification of the introductory Shoreland Zoning Certificate will result in a complete loss of certification in the area of Shoreland Zoning.

## **Section 5. Standards and Procedures for Advanced Certification**

- A. Advanced Certification may be recognized by the Office in the following areas:
1. Enforcement of the State of Maine Plumbing Code adopted pursuant to 30-A M.R.S.A. §§ 4201-4223.
  2. Enforcement of the State of Maine Subsurface Wastewater Disposal Rules adopted pursuant to 30-A M.R.S.A. §§ 4201-4223.
  3. Enforcement of local building standards adopted pursuant to 25 M.R.S.A §§ 2351-2361 and 2701-2704, and 30-A M.R.S.A. §§ 4101-4104 and 3001-3003.
  4. Enforcement of Shoreland Zoning Ordinances adopted or imposed pursuant to 38 M.R.S.A. §§ 435-447.
  5. Enforcement of local land use ordinances adopted pursuant to 30-A M.R.S.A. §§ 3001-3003 and 4301-4469.
- B. An Advanced Certification is an acknowledgment that the recipient has met the training and experience standards of this section. An examination is not required.
- C. To obtain an Advanced Certification in one or more of the code enforcement areas listed in (A) above, an individual must:

1. Be currently certified in that area of code enforcement responsibility; and
2. Petition the Office with documentation of the completed advanced level training, or degrees, as defined in section 2 (D), in associated fields, or work experience equal to at least 36 hours in an area.
  - a. Credit for previous advanced level training will be considered according to the following criteria:
    1. The training, as defined in Section 2(F), shall be in a specific area of code enforcement enumerated in section 5(A) above. The applicability of the training will be determined by the Office. This credit may be applied toward Advanced Certification in more than one (1) area of code enforcement;
    2. The training shall have been completed no earlier than ten (10) years prior to the date of request for credit;
    3. The training, shall be from recognized institutions of learning or agencies (such as State government, national or State professional organization, or accredited educational institution);
    4. Documentation of the successful completion of the training shall be filed with the Office on forms supplied by the Office.
  - b. Degrees in associated fields shall be worth up to 15 credit hours; and credits for degrees shall be applied towards initial advanced certification.
  - c. Employment as a municipal Code Enforcement Officer in a specific area of code enforcement shall be worth one hour of training credit for each year of such employment up to a maximum of ten (10) hours.
  - d. Employment in a field directly related to code enforcement (e.g. plumbing, building) shall be worth up to one hour of training credit for each year of employment, up to a maximum of ten (10) hours.
- D. Advanced Certification shall be valid for a period of 5 years. An advanced certification shall expire on the date of expiration of certification for the specific areas of job responsibility. It may be renewed upon completion of at least 24 credit hours of current Advanced Training in that area within the 5 year period, except that advanced certifications which expire between 1/31/98 and 1/31/00 shall be renewed according to the chart below:

Transition period for recertification of Advanced Certification:

Year of Expiration	Recertification credits needed
1998	0 credits
1999	12 credits
2000	18 credits

#### **Section 6. Certification for Rule 80K**

Certification for Rule 80K means certification of familiarity with District Court procedures for the prosecution of alleged land use violations pursuant to Rule 80K of the Maine Rules of Civil Procedure and 30-A M.R.S.A. § 4453.

- A. A certificate for Rule 80K authorizing the use of Maine Rules of Civil Procedure shall be issued upon completion of a twelve (12) hour training session and successful completion of a Certification Examination in Rule 80K and Court Procedures.
- B. A certificate for Rule 80K may be renewed when an applicant has completed at least twelve (12) hours of training in court procedures and related issues.
- C. Documented work experience using Rule 80K procedures may be applied as credit toward recertification. One hour of time involved in Rule 80K procedure, such as filing court documents and case resolution may be granted recertification credits, up to a maximum of 6 hours.

#### **Section 7. Performance by Municipalities**

- A. All municipally employed code enforcement officers shall be certified.

Upon initial appointment as a municipal Code Enforcement Officer, an individual has a maximum of twelve (12) months to become certified in the specific areas of his or her job responsibilities, except that an individual must acquire certification in the areas of the Maine Plumbing Code and Subsurface Waste Water Disposal (as listed in Section 3(C) of this rule) prior to municipal appointment.

A Code Enforcement Officer who changes employment and /or adds an area(s) of responsibility to his or her job responsibilities, shall have twelve (12) months to become certified in that additional area(s).

Municipalities may petition for up to a twelve (12) month extension of the (12) month deadline. Petitions for extension of this deadline shall be granted by the Office only in cases where it can be demonstrated that the necessary training or examination was not available within that time period; or where the Office finds that certification could not be achieved because of hardship on the municipality.

- B. Each municipality shall file with the Office a job description which specifies the area(s) of job responsibilities of its Code Enforcement Officer(s). Refer to section 3(C) for the list of Certification areas.
- C. Annually, each municipality shall notify the Office of the appointment, reappointment or continuation of its Code Enforcement Officer(s).

STATUTORY AUTHORITY: 30-A M.R.S.A. § § 4451(5) and 4453

EFFECTIVE DATE: February 8, 1998

## **XVI. FREQUENTLY ASKED QUESTIONS**

This section is a presentation of frequently asked questions. While somewhat outside the strict focus of an information guide, they may be of interest to some readers.

**Q: It is difficult for our town to hire a code enforcement officer because of the costs involved in this un-funded State mandate. What should we do?**

**A:** The law, Title 30-A § 4451 does not require any new municipal positions. These requirements have existed in other law for a long time. While the law does require training, we provide it and any essential training manuals free of charge to municipally employed code enforcement officers. See Section I for more information.

**Q: Is there a charge for the training?**

**A:** See the answer to Question #1 above and also refer to Section I of this guide.

**Q: What can the town do to make the job of code enforcement more appealing? We do not have enough money to hire someone full time and pay a good wage.**

**A:** An “interlocal agreement” is an administrative tool that some towns use. If neighboring towns, with similar needs, can agree to act jointly and hire one CEO between them you may be able to present an attractive salary and benefit package. This approach may also lend itself to a reduction in administrative costs because the burden is spread out among partners. For example, one town may have available office space and the other may have an extra computer. In addition, the purchase of other resource materials may be shared. Towns who join together should also examine their permit and review fees. Another idea is to examine whether any other part-time positions in your town may be combined with the code enforcement duties, in other words create a full-time position with two part-time jobs.

**Q: What happens when a town gets sued? Is there any type of funding that will help if a code officer who is doing her job and lands in court?**

**A:** Personal liability for actions taken by a municipal official is very limited under Maine Law. Provided that the official acted properly and in good faith they should have little to worry about because the law protects them. This protection is called statutory immunity. As a matter of practice, Maine municipalities will cover the legal costs incurred in these lawsuits, as well as fines an official might have to pay. However, it should be noted that the law does not protect a municipality when it knowingly makes decisions or acts improperly regarding administration and enforcement of ordinances and State regulations. A town's best defense is to make a good faith effort to follow accepted procedure and to make decisions fairly and consistently within the bounds of the law.

**Q: How much training do you need before you become certified?**

**A:** Compliance with the State’s certification requirement is based upon the actual duties a particular code enforcement officer has in their employment with a town. In general, all code officers must take the Legal Issues Exam. An individual’s actual job duties will determine which of the Specialty Area Exams they will be required to take. (e.g., shoreland zoning, land use/zoning, building standards, internal plumbing, and external plumbing)

**Q: Do you let the town know what training and certification the CEO needs?**

**A:** Yes, we will review the job description that you provide to us.

**Q: Do you let towns know whether their CEO has achieved the required certification?**

**A:** Yes, we provide the town and the code officer with this information. We also provide a reminder notice about halfway through the 12-month grace period. When full certification is achieved the individual is issued a certificate and a wallet card.

**Q: Instead of hiring a code officer, can our planning board enforce the town's shoreland zoning ordinance?**

**A:** Yes, if the entire board is certified in code enforcement for shoreland zoning. In short, every member of the planning board must be a certified code enforcement officer in shoreland zoning. The board must make decisions jointly, although it is okay if one board member performs an inspection and reports the findings back to other board members.

**Q: Can the board of selectmen enforce our shoreland zoning ordinance?**

**A:** The Maine Municipal Association recommends that this not be done. There is an inherent conflict of interest between the positions, where one appoints and supervises the other. Maine courts have concluded that where an individual accepts an appointment to a position creating a conflict of interest with another position held, that the first position is automatically vacated. Practically speaking, he or she needs to resign as selectman every time it is necessary to act as CEO and then be reassigned as selectman after the action is completed. The way to prevent this need from arising is to have an alternate CEO appointed.

**Q: We have advertised for a CEO and we can't seem to get anyone who?**

**A:** We maintain a database of everyone holding State certification or who is actively seeking certification by attending training sessions. When we are aware of vacancies we try to get the word out. We would be happy to provide you with a list of individuals from our database.